

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

STRIX, LLC, I.S. WINGS, LLC, E.M. WINGS,
LLC, F.D. WINGS, LLC, and F.M. WINGS, LLC

Plaintiffs,

-against-

GE CAPITAL COMMERCIAL OF UTAH, LLC,
GE CAPITAL CORP., and GE ELECTRIC
CAPITAL

Defendants.

GE CAPITAL COMMERCIAL OF UTAH, LLC,
and GENERAL ELECTRIC CAPITAL
CORPORATION

Counter-claim/Third Party
Plaintiff,

v.

STRIX, LLC, I.S. WINGS, LLC, E.M. WINGS,
LLC, F.D. WINGS, LLC, and F.M. WINGS, LLC

Counter-claim Defendants.

-and-

RICHARD BUCKLEY and CHRISTOPHER
LEVANO

Third-party Defendants.

x

:

:

:

:

:

:

:

:

:

:

x

:

:

:

:

:

:

:

:

:

:

:

:

:

:

x

Civ. No. 11-civ-4403 (SJF) (WDW)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ **MAY 24 2013** ★

LONG ISLAND OFFICE



PROPOSED ORDER AND JUDGMENT

WHEREAS, on or about July 2, 2012, Plaintiffs/Counter-claim Defendants Strix, LLC, I.S. Wings, LLC, E.M. Wings, LLC, F.D. Wings, LLC and F.M. Wings, LLC (collectively, the "Strix Parties") filed their Verified Complaint in this Court against Defendants/Counter-claim Plaintiffs GE Capital Commercial of Utah, LLC and General Electric Capital Corporation (collectively, "GE"), pursuant to which the Strix Parties, among other things, (i) sought a declaration that the loans made to them by GE (the "Loans") were not in default; and (ii) asserted

affirmative claims against GE for which the Strix Parties sought compensatory damages in the amount of at least \$2,000,000 and punitive damages in the amount of at least \$5,000,000 (the "Complaint"); and

WHEREAS, on or about December 13, 2013, GE filed and served its Amended Answer with Counter-Claims and Third-Party Claims, pursuant to which GE, among other things, (i) denied the allegations set forth in the Complaint; (ii) sought an order of replevin and the appointment of a receiver pursuant to the Loan documents; and (iii) asserted affirmative claims against the Strix Parties, jointly and severally, for breach of contract under the Loan documents for which GE sought compensatory damages in the amount of at least \$2,229,250.57 plus attorneys' fees and costs (the "Counterclaim"); and

WHEREAS, on or about March 5, 2013, GE filed a Motion for Summary Judgment, requesting that this Court enter judgment in GE's favor and against the Strix Parties (i) granting GE's affirmative claims for breach of contract set forth in the Counterclaim in the amount of no less than \$2,500,000, plus additional accrued interest and attorneys' fees and costs; and (b) dismissing the Strix Parties' claims set forth in the Complaint, together with such other relief that the Court deemed appropriate (the "Summary Judgment Motion"); and

WHEREAS, after due and proper notice and the opportunity to be heard, the Strix Parties did not oppose the Summary Judgment Motion; and

WHEREAS, on or about March 6, 2013, this Court entered an order of replevin as against the Strix Parties; and

WHEREAS, on or about April 16, 2013, this Court rendered an oral decision granting GE's Summary Judgment Motion.

NOW THEREFORE, it is hereby

ORDERED AND ADJUDGED that,

The Clerk of the Court is directed to enter judgment in favor of GE and against the Strix Parties, jointly and severally, in the amount of \$2,500,000, plus post-judgment interest at the statutory rate from the date of this order until the date of satisfaction of the judgment; and in the amount of \$253,526.49 in attorneys' fees and costs, as damages for the Strix Parties' breach of the Loan documents as set forth in the Counterclaim; and

The Clerk of the Court is directed to enter judgment in favor of GE and against the Strix Parties on all claims and requests for legal and equitable relief asserted by the Strix Parties against GE in the Complaint, and to dismiss all such claims and requests for relief with prejudice. *The Clerk of the Court shall close this case.*

Dated: May 24, 2013
Central Islip, New York

s/ Sandra J. Feuerstein

Hon. Sandra J. Feuerstein
U.S. District Court Judge, E.D.N.Y.